

Booklet 1

Housing Programs in Massachusetts

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Words in *italics* appear in the
Glossary in the back of this book

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The purpose of government-funded housing is to provide decent, safe, and affordable housing.

Figuring out **what type of housing** you are applying for or live in and **who funds it** can be confusing, but it is essential to know in order to figure out what rules apply and what your rights are.

This booklet will give you an overview of the rental housing programs for low- and moderate-income people in Massachusetts and help you identify different programs and find the laws and rules that apply to them.

Types of Housing Programs

1. What types of low-rent housing programs are there?

There are three basic types of government-funded housing in Massachusetts that help make rents more affordable for low- and moderate-income people:

- **Public Housing**
Public housing is owned and run by a local *housing authority*. If you live in public housing, the housing authority is your landlord.
- **Vouchers**
A voucher is rental assistance to help people find an apartment in the private market. This is also called a *tenant-based subsidy* because the subsidy stays with the tenant, not a particular development.
- **Multifamily Subsidized Housing**
Multifamily subsidized housing is owned by a private landlord or corporation that has received government subsidies to provide affordable housing. This is also called a *project-based subsidy* because the subsidy stays with the project, not a particular tenant. Often, affordable apartments are in the same development as market-rate apartments.

Within each of these three types of housing, there are many different affordable housing programs—each with its own rules. On the next page is a list of the major rental housing programs in Massachusetts.

Major Housing Programs in Massachusetts at a Glance

Public Housing

Federal Public Housing

- ❑ Family public housing
- ❑ Public housing for seniors and people with disabilities

State Public Housing

- ❑ Family public housing (Chapter 200)
- ❑ Family public housing (Chapter 705 Scattered Site)
- ❑ Public housing for seniors and people with disabilities (Chapter 667)
- ❑ Special needs housing (Chapter 689 and 176)

Vouchers

Federal Voucher Programs (*tenant-based*)

- ❑ Section 8 Housing Choice Voucher Program
- ❑ HOME Tenant-Based Rental Assistance

State Voucher Programs (*tenant-based*)

- ❑ Massachusetts Rental Voucher Program
- ❑ Alternative Housing Voucher Program

Special Federal Section 8 Voucher Programs

- ❑ Section 8 Mainstream Program for People with Disabilities
- ❑ Section 8 Family Unification Program
- ❑ Section 8 Family Self-Sufficiency Program (FSS)
- ❑ Section 8 Welfare-to-Work (Job-Link) Program
- ❑ Section 8 Homeownership Option
- ❑ Section 8 Project-Based Voucher Program (PBV)
- ❑ Section 8 Veterans Affairs Supported Housing Program (VASH)
- ❑ Section 8 for Victims of Domestic Violence
- ❑ Section 8 Housing Options Programs (HOP)
- ❑ Section 8 Grandparent Programs

Multifamily Housing Programs

Federal Multifamily Subsidized Programs

- ❑ Section 221(d) Family Housing
- ❑ Section 236 Family Housing
- ❑ Rent Supplement
- ❑ Section 236 Rental Assistance Program (RAP)
- ❑ Section 8 Project-Based Assistance
(New Construction, Substantial Rehabilitation, State Set-Aside, Loan-Management Set-Aside, Property Disposition Programs)
- ❑ Section 202 Supportive Housing for Seniors
- ❑ Section 811 Supportive Housing for People with Disabilities
- ❑ Enhanced (Sticky) Vouchers
- ❑ Section 8 Moderate Rehabilitation Program
- ❑ HOME Program (Other Than Tenant-Based Rental Assistance)

State Multifamily Subsidized Programs

- ❑ MassHousing Section 13A Interest Subsidies
- ❑ State Housing Assistance for Rental Production (SHARP)
- ❑ Rental Development Action Loan Program (RDAL)
- ❑ Project-Based Mass. Rental Voucher Program (Project-Based MRVP)

Tax-Related Housing Programs

- ❑ Federal Low Income Housing Tax Credit
- ❑ State Low Income Housing Tax Credit
- ❑ Tax-Exempt Local Loans to Encourage Rental Housing (TELLER)

Special Housing Programs

Federal Housing Programs for People Who Are Homeless

- ❑ Shelter Care Plus
- ❑ Housing Opportunities for Persons with AIDS (HOPWA)
- ❑ Section 8 Moderate Rehab for Single Room Occupancy
- ❑ Supportive Transitional Housing
- ❑ Supportive Permanent Housing

State Housing Programs for People with Mental Disabilities

- ❑ Massachusetts Housing Finance Agency 3% Set-Aside
- ❑ Department of Mental Health (DMH) Rental Assistance Program
- ❑ Other Department of Mental Health Community Residential Programs
- ❑ Special needs housing (Chapter 689 and 176)

2. What is the difference between public and subsidized housing?

Different housing programs have different features. While they all help make your rent more affordable, it is important to understand the features of each program so that you can apply to the ones that are best suited for your family. If you have questions about a housing program, talk to your local housing authority or local community action program. Here are some things to know:

Who your landlord is

If you live in **public housing**, the housing authority owns your building and is your landlord. In a few cases, a private company may manage the building for the housing authority or may be part of the ownership, but the building is still controlled by the housing authority.¹ Housing authorities operate in most cities and towns in Massachusetts. They were established by state law to provide affordable housing for low-income people.²

If you live in **subsidized housing**, the housing authority is **not** your landlord. Subsidized housing is owned and operated by private owners who receive subsidies in exchange for renting to low- and moderate-income people. Owners may be individual landlords or for-profit or nonprofit corporations.

Subsidized housing can be **vouchers**, where the subsidy is used by a tenant to find rental housing in the private market and is paid to a private landlord. This subsidy stays with the tenant. Or it can be **multifamily subsidized housing**, where the subsidy is given to the owner who provides affordable housing. This subsidy stays with the property.

Who is eligible

To be eligible for public and subsidized housing, your income must be below certain income limits. You must also meet other qualifications. Income limits for **public housing** and **vouchers** are set by the government and change every year. Income limits for **multifamily subsidized housing** vary from development to development. For more information, see **Booklet 3: Who Is Eligible**.

Where you apply

To apply for **public housing**, you must submit an application to the housing authority in the city or town where you would like to live. There are 237 housing authorities in Massachusetts. You can apply to as many as you want.

To apply for a **Section 8 voucher**, you can apply to any housing authority that runs a Section 8 voucher program. There are about 130 housing authorities

that have a Section 8 program. You can also apply to one centralized Section 8 list where 40 housing authorities are currently participating. In addition, you can apply to any of the nine regional nonprofit housing agencies where Section 8 vouchers are available.

To apply for **multifamily subsidized housing**, you must apply at each building or development that you are interested in living in. For more about how to apply, see **Booklet 2: How to Apply**.

Where you can live

If you get a **voucher**, you can use it anywhere in the state; if it is a Section 8 voucher, you can use it outside of the state. If you get into **public housing**, you must live in the community where you applied. If you get into **multifamily subsidized housing**, you must live in the development where you applied.

If you have a voucher and want to move, you can take your voucher with you. If you move from public housing or multifamily subsidized housing, you cannot take your subsidy with you.

Who has priority

Because more people apply for public and subsidized housing than there are apartments available, the law may require different housing programs to give certain people *priority* or *preference* over others. What preferences are required depends more on whether the housing receives federal or state funding.

When you are applying for housing, it is very important to know what the *priorities* are for that particular program. If you fit into a priority, you could improve your chance of getting housing. For more about this, see **Booklet 4: Who Has Priority**.

Waiting lists

In general, waiting lists for **public housing** are shorter than for **vouchers**. Many waiting lists are long and some are closed. But many housing authorities will accept applications for **public housing** all year long. The centralized Section 8 waiting list operated by MassNAHRO and the waiting lists at the regional nonprofit housing agencies are open indefinitely. For more information about waiting lists, see **Booklet 5: How Waiting Lists Work**.

How you are screened

Housing authorities and owners of subsidized housing have the right to do *tenant screening*. They do this by checking various records, the most common of which are past landlord references, credit reports, and criminal records.

The rules concerning access to criminal records are different for **public housing** and **vouchers** than they are for **multifamily subsidized housing**. For more information, see **Booklet 6: Tenant Screening**.

Finding an apartment

Once you are admitted to **public housing** or a **multifamily subsidized housing** development, you have an apartment. You do not need to find your own apartment.

With a **voucher**, you have to find your own apartment in the private market. If, within a certain period of time, you do not find an apartment that has a reasonable rent and is in good condition, your voucher will expire, you will lose it, and you will have to reapply.

How rent is calculated and recalculated

Tenants in **public housing** generally pay about 30% of their income for rent if utilities are included and less than 30% if utilities are not included.³ For state family public housing, this percentage is slightly higher as a result of a law passed in 2003.⁴ In public housing, each year the housing authority determines how much your rent will be based on your income and certain *deductions* and *exclusions* you are eligible for.⁵ If you report a change in your income or deductions during the year, your rent will usually be adjusted so that you pay the same percentage of your income for rent.⁶ For more information on public housing rents, go to: www.MassLegalHelp.org/housing/rent-public-housing.

In **voucher** programs, tenants sometimes end up paying up to 40% of their income for rent (or, for the Section 8 voucher program, more after the first year of your lease) because market rents have increased.⁷ If the landlord requests a rent increase during your tenancy and the new rent is above the maximum subsidy the housing authority will pay, that percentage may go up. The housing authority must make sure that the rent your landlord is charging is still reasonable by comparing it with rents for other similar apartments.⁸ If you are leasing an apartment for the first time with a Section 8 voucher and the proposed rent and tenant-paid utilities would make your portion of the rent more than 40% of your income, the housing authority will not agree to approve the apartment and you will be forced to find another apartment.

In **multifamily subsidized housing**, rents are calculated differently for different programs. In some programs, tenants' rents are set at a percentage of income similar to those for public housing. In some programs, rents may be set at a fixed amount, based on the number of bedrooms, which is lower than market-rate rents. In this situation, the rent does not change even if your income or deductions change.⁹ In some programs, your income may qualify you for an adjustment in your rent, even though there is still a basic rent that you have to pay which may be more than 30% of your income. Because the

different program rules can make a big difference in whether or not an apartment is affordable for you, it is important to ask the landlord how the rent is calculated and how it changes if your income changes, when you are deciding whether to apply at a specific development.

If some or all of your family members are immigrants and you are in certain types of federal housing programs, your rent can be *pro-rated* to a higher amount because one or more family members do not have immigration status that is recognized by HUD.¹⁰ See **Booklet 9: Immigrants and Housing**.

What your rights are once you are in

If you get into public housing, multifamily subsidized housing, or you get a voucher, you have different rights concerning evictions, grievances, tenant participation, and many other issues. To get information about your rights once you are in a program, go to: www.MassLegalHelp.org/housing.

Your family size changes

In all housing programs, you should promptly report if there are changes in your family size. If someone has left your household, the housing authority or owner may request verification of their new address. If a minor child is added to the household due to birth, adoption, or court-awarded custody, advance approval of the addition is not needed before the child moves in. In all other cases, you will need to get advance approval before a new family member moves in. In addition, the housing authority or owner may screen additions to the household for criminal history and (in most of the federal programs) for immigration status.¹¹

In **public housing or multifamily housing**, if your family size changes, you may be able to transfer to another public housing or subsidized apartment of a more appropriate size. These transfers often take a long time to happen.¹² In state public housing, if you are in too large an apartment for your family size (you are “over-housed”) and you don’t transfer into a smaller sized unit offered by the housing authority, your rent can be increased to 150% of its usual level.¹³

With a **voucher**, if your family size changes, the subsidy with the voucher changes by the date that your *annual recertification* report on your income and family composition is effective. This is so that you can find an apartment that is a better match to your household size. This means, however, that in addition to adjusting with an increase in family size, if there is a reduction in your household size, the subsidy is reduced at the time of your annual recertification, so you would have to pay a higher rent or move. You can ask the housing agency to let you have a different “subsidy standard” (bedroom size for the subsidy) than it would normally apply due to your family’s medical needs or other special circumstances.

Evictions and loss of subsidy

The only reason you can be evicted from **public housing** or any **multifamily housing** is if you violate the lease or program rules. As long as you abide by the terms of the lease, you can stay in your apartment.¹⁴ If you are evicted from public housing or subsidized multifamily housing, you lose your subsidy.

In the tenant-based **voucher** programs, during the first year of the lease or at any time thereafter, you can be evicted for violating your lease. At the end of the first year or at the end of any further renewal period, the landlord may refuse to renew the lease and you may have to move even if you did not do anything wrong. In addition, after the first year of the lease, the landlord can terminate your tenancy with a 30-day *notice to quit*, although it must be for a good reason which is not your fault (such as sale of the property, need for a higher rent, renovations, or needing the apartment for a family member). If the eviction is not your fault, you can keep your subsidy and use it to move to a new apartment. If you lose an eviction case for a reason that is your fault, you may lose your subsidy.¹⁵

For the MRVP and Section 8 voucher programs, if the landlord terminates the lease or refuses to renew the subsidy, the housing agency should continue to pay its portion of the rent until the eviction process is completed (including any appeal of an eviction case or any *stay of execution*) or until you move.¹⁶ There may be cases, however, where the housing agency stops paying its subsidy or terminates its contract with the owner because the owner has failed to make repairs. You are not responsible for the housing authority's share of the rent if this happens.¹⁷ However, the housing agency may require you to relocate with your voucher in order to keep getting assistance.

3. What types of public housing are there?

There are different types of public housing programs in Massachusetts. Some are for families. Some are specifically for seniors and people with disabilities. Some are funded by the federal government, some by the state government. One housing authority can, in fact, have different types of public housing. For this reason it is important to figure out **what type of public housing** you are applying for or live in and **who funds it** to figure out what your rights are.

Federal public housing

Federal public housing is funded by the U.S. Department of Housing and Urban Development (HUD).¹⁸ There are two types of federally funded public housing:

□ Family housing

Federally funded family public housing is open to families, single people, people of all ages, and people with disabilities who meet certain income guidelines. Apartments are usually in large developments. The number of bedrooms in an apartment is determined by the number and gender of people in your household. There are about 18,000 federal family public housing units in Massachusetts.

Note: An important thing to remember about family public housing is that the number and gender of members in your household determine how big an apartment you will be eligible for. For example, if your household consists of a husband and wife and two sons, you will be eligible for a 2-bedroom apartment in public housing. If your household consists of a mother, one daughter and one son, you will be eligible for a 3-bedroom apartment. If your family needs a 4-bedroom apartment, check to be sure that the housing authority where you are applying has 4-bedroom units and be prepared for a long wait for one to become available. You may qualify for more than one apartment size and may choose a smaller-size unit because apartments of that size will be more quickly available. If you do this, however, there may be a long waiting period to transfer to a larger apartment.

□ Housing for seniors and people with disabilities

Federally funded public housing for seniors and people with disabilities is available to households where the head of household or spouse is at least 62 years of age or has a disability and is income eligible.¹⁹ Apartments are usually studios or one-bedroom apartments, although there are a few two-bedroom apartments. There are about 15,000 federal elderly/disabled public housing apartments in Massachusetts.

Federal law allows housing authorities to seek permission to designate elderly/disabled public housing as “elderly only,” “disabled only,” or mixed, or to place caps on the number of non-elderly disabled tenants living in a development. A number of Massachusetts housing authorities have sought and obtained such permission.²⁰

State public housing

State public housing is funded by the Massachusetts Department of Housing and Community Development (DHCD).²¹ There are four types of state public housing:

❑ **Family housing (Chapter 200 housing)**

This housing is open to people of all ages, including single people, people with disabilities, and families. It is usually located in large developments. Sometimes it is called “veterans housing” because the program was originally for veterans returning from World War II. The number of bedrooms for an apartment is determined by the number and gender of people in the household.²² There are about 13,000 Chapter 200 family public housing apartments in Massachusetts.

❑ **Family housing (Chapter 705 scattered site housing)**

This housing is open to people of all ages, including single people, people with disabilities, and families. It is usually in smaller buildings scattered throughout a city or town. Many of these blend in with private market apartments.²³ There are about 3,000 Chapter 705 family state public housing apartments in Massachusetts.

❑ **Housing for seniors/people with disabilities (Chapter 667 housing)**

State-funded public housing for seniors and people with disabilities is open to households where one member of the household is at least 60 years of age or has a disability and meets certain income guidelines.²⁴ Apartments are usually studios and one-bedroom units, although there are a few two-bedroom apartments. There are approximately 32,400 Chapter 667 public housing apartments in this program throughout the state.

For state public housing, the person with a disability can be any member of the family and does not have to be the head of household or a spouse (as is the case in federal public housing). For this program, however, there is a limit as to the percentage of non-elderly people with disabilities who are allowed to rent. Under state law, no more than 13.5% of a housing authority’s state-funded elderly and disabled apartments can be rented to non-elderly people with disabilities.²⁵ Some places have been at this 13.5% cap for many years. In those communities, it is very difficult for non-elderly people with disabilities to get apartments in this type of housing. If you are not sure if a particular housing authority has reached this cap, you can contact the housing authority or the Bureau of Housing Management at DHCD.

There are also 22 developments in which DHCD has established the Supportive Senior Housing Initiative, which has created about 2,880 assisted living-like apartments. There are also about 900 units of *congregate housing* that combine services and housing. For a list of housing authorities that have congregate housing, go to the website of the Massachusetts Department of Elder Affairs at:

www.mass.gov/portal/index.jsp?pageID=eldersterminal&L=3&L0=Home&L1=Housing&L2=Congregate+Housing&sid=Eelders&b=terminalcontent&f=congregate_contractsitelist&csid=Eelders

□ **Special needs housing (Chapter 689 and Chapter 167 housing)**
Chapter 689 housing is public housing for adults with special needs. Although the program was established to serve people with a wide variety of needs, the current focus is on creating group homes for adults with mental disabilities leaving facilities run by the Department of Mental Health (DMH). Chapter 167 housing provides housing for people with chronic mental illnesses. The current program provides housing for people leaving state mental health hospitals. There are 1,882 Chapter 689 and Chapter 167 apartments in Massachusetts. Although housing authorities do not select tenants for these properties, they own the properties and contract with the DMH or Department of Mental Retardation (DMR) to arrange tenant selection and to staff the housing.²⁶

4. What types of vouchers are there?

A voucher is a kind of subsidy that allows a housing agency to pay a portion of your rent for an apartment that you must find in the private market. While the actual tenancy is between you and a private landlord, you also have a relationship with the housing authority or regional nonprofit housing agency that *administers* the voucher. This means that the administering agency must approve the *contract rent* for the apartment, determine how much your portion of the rent will be, inspect the apartment periodically to be sure it is safe, do a yearly review of your income and household composition, and monitor the voucher to make sure that both you and landlord are complying with the rules of the program.

The largest voucher program is the federal Section 8 voucher program, which is also called the *Housing Choice Voucher Program*. There are about 65,100 Section 8 vouchers in Massachusetts. There are also a number of smaller Section 8 voucher programs for people with special needs. HOME federal affordable housing funds can also be used for tenant-based rental assistance similar to Section 8 vouchers.

There are also two state tenant-based voucher programs: the Massachusetts Rental Voucher Program (MRVP), which currently has 3,600 tenant-based vouchers; and the Alternative Housing Voucher Program (AHVP), for people with disabilities, which currently has 800 vouchers.

Section 8 vouchers

The Section 8 voucher program is funded by the federal government through the U.S. Department of Housing and Urban Development (HUD).²⁷ With a Section 8 voucher, you can live anywhere in Massachusetts. If you move, you

can take the voucher with you and, after the first year, you can use it anywhere in the country.²⁸

Section 8 vouchers are given out by roughly 130 housing authorities and 9 regional nonprofit housing agencies in Massachusetts. For a listing of authorities and agencies which administer the Section 8 program, see the **Directory** at the back of this book. The housing authority or regional nonprofit where you apply determines whether you are eligible for a voucher.²⁹ It calculates how much your share of the rent is—usually between 30% and 40% of your income.³⁰ While a housing agency is required to do an adult criminal record check, in general, landlords who take Section 8 are responsible for *screening* and selecting their own tenants.³¹ For more information, see **Booklet 6: Tenant Screening**.

When you first get a Section 8 voucher, you have a certain period of time to find an apartment.³² This is called the *search period*. You must *lease up* with the voucher before the search period ends. All housing authorities and regional nonprofits must give you at least 60 days' search time. Each housing authority and regional nonprofit also sets its own policy about how much time it will extend this 60-day search period and for what reasons.³³ The housing agency may also determine whether the search period should be frozen (*suspended*). Good reasons for extending or freezing your search period are that you have been hospitalized or are otherwise unable to engage in housing search for reasons beyond your control, or that you have submitted a request for an apartment to be approved and are waiting for a final decision.

A landlord who is willing to rent to a household with a Section 8 voucher holder submits a form called a *request for tenancy approval* to the housing authority or regional non-profit. This form must state the total rent to owner for the apartment and which utilities will be paid for by the landlord and by the tenant. The rent must be reasonable, which means that it must be similar to the rents charged for unassisted private market apartments of similar size, amenities, and condition in the premises and in the community.³⁴

In addition to the requirement that the *rent to owner* be reasonable, the housing authority must determine that the family's portion of the rent will not exceed 40% of income at initial lease-up. This means that the difference between the housing authority's *payment standard* (maximum subsidy payment) for the apartment and the tenant's portion of the housing costs (rent paid to the owner plus any tenant-paid utilities as determined by the housing authority's *utility allowances*) cannot be more than 10% of household income. Most housing authorities set their *payment standards* between 90% and 110% of the *Fair Market Rents* published by HUD each year. A higher payment standard may be established as a *reasonable accommodation* for persons with disabilities, which can allow them to rent more expensive units if needed.³⁵ In

the **Reference Materials** at the end of this booklet is a chart with the *Fair Market Rents* in Massachusetts for 2006.

Once a *request for tenancy approval* is submitted, the housing authority then approves or rejects this rent, inspects the apartment to make sure that it is habitable, and reviews the lease. For more information about finding an apartment with a Section 8 voucher, see **Booklet 8: Using a Section 8 Voucher**.

Once an apartment is approved, the landlord and tenant sign a lease. Usually a lease has a term of one year. During this first year, the landlord can terminate your lease only for *good cause*—that is, if you violate your lease.³⁶ If you want to move out in the first year of the lease, ordinarily you must get the landlord's agreement to break the lease. However, at the end of the first year of the lease, a landlord can choose not to renew your lease without having to state a *good cause*.³⁷ If you claim that the landlord's failure to renew is really because she is discriminating against you because you have a Section 8, the landlord may have to prove that you violated the lease or that the landlord has a business reason for not renewing it.³⁸ For more about housing discrimination and your rights with a voucher once you have it, go to: www.MassLegalHelp.org/housing/discrimination.

In addition to your relationship with the landlord, under the Section 8 voucher program you have an ongoing relationship with the local housing authority or regional nonprofit agency and have to report on your income and household composition. The housing agency can terminate you from the Section 8 program if it believes that you have violated any Section 8 program rules (for example, not properly reporting on income or family composition, or engaging in fraud). If this happens, you can request an informal hearing to show why you should not be dropped from the program.³⁹

Useful websites:

- For more about the Housing Choice Voucher Program from HUD, go to: www.hud.gov/offices/pih/programs/hcv/index.cfm.
- For HUD's *Housing Choice Voucher Program Guidebook*, go to: www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm.
- For more information about the Section 8 program from DHCD, go to: <http://www.mass.gov/dhcd/components/DOH/BoFRA/Sec8/s8.htm>
- For more information about efforts being made to protect the Section 8 program, go to: www.cbpp.org/housingvoucher.htm.

Massachusetts Rental Voucher Program (tenant-based vouchers)

The Massachusetts Rental Voucher Program (MRVP) is a state-funded voucher program.⁴⁰ There are two components to this program: *tenant-based* (or mobile) vouchers, and *project-based* (non-mobile) vouchers. Project-based units are discussed below under multifamily housing. There are now only about 3,600 MRVP tenant-based vouchers in existence. For a listing of housing authorities that administer the MRVP program, see the **Directory** at the back of this book.

MRVP vouchers are given out by housing authorities and regional nonprofit housing agencies, which determine eligibility and generally conduct *tenant screening*. The actual tenancies are with private owners. If you have an MRVP tenant-based voucher, you can live anywhere in Massachusetts—with one exception: you cannot relocate or move to another city or town if the apartment is located in an area where 40% or more of the people live at or below the Federal Poverty Level.⁴¹ See the **Reference Materials** at the end of this booklet for the Federal Poverty Levels for 2004. You cannot use an MRVP voucher outside of Massachusetts.

MRVP allows a 120-day *search period* to find an apartment. You must *lease up* with the voucher before the search period ends. This search period may be suspended for one 30-day period or less if you are unable to do housing search because of a hardship. If you find an apartment, the owner must submit a *request for program participation* and certification from the local board of health that the apartment is in good condition. When the owner submits a request for program participation, the search period is suspended until you lease up this unit. If you are not able to lease that apartment, the voucher is reactivated for the rest of the 120 days.⁴²

For an MRVP tenant-based voucher, as of July 2005, the tenant family cannot pay more than 40% of income for its share of the rent. The value of the subsidy depends on your income, the number of bedrooms, and the geographic area. There is no utility allowance or heat deduction for the MRVP program.⁴³ You may have difficulty renting or relocating with an MRVP voucher because housing authorities usually pay a landlord less than what they pay for the Section 8 program.⁴⁴

Owners who accept an MRVP tenant must have a written lease and sign an MRVP lease addendum. This guarantees that during the one-year lease term you will not be evicted except for *good cause* and your rent is limited to that set in the lease.⁴⁵

As with the Section 8 voucher program, you will have an ongoing relationship with staff at the local housing authority or regional nonprofit agency. You will

have to report regularly on your income and household composition, and can have your assistance terminated if you violate program rules or are evicted for a lease violation. You can request an informal hearing if the housing agency is proposing to terminate you from the program.⁴⁶

Alternative Housing Voucher Program

The Alternative Housing Voucher Program (AHVP) is a state-funded voucher program created in 1995.⁴⁷ There are currently about 800 AHVP vouchers in use at 39 housing authorities in the state. A list of all housing authorities, with a notation about those that administer AHVP vouchers, is included in the **Directory** at the end of this book.

AHVP provides vouchers to people with disabilities who are under 60 years of age and their families who are on waiting lists for state public elderly/disabled housing at housing authorities that have rented 13.5% of their apartments to non-elderly disabled tenants. AHVP waiting lists open and close periodically as additional funding is released to housing authorities by DHCD.

As with the Massachusetts Rental Housing Voucher program, you must find an apartment within 120 days of getting a voucher. This search period can be “frozen” or suspended for one 30-day period or less if you are unable to do housing search because of a hardship. Your share of the rent is 30% of income if utilities are included, or 25% of income if utilities are not included. As with state public housing, if you have to pay for heat, there is an additional heat deduction.⁴⁸ DHCD places a limit on the amount of rent that may be approved for apartments in the AHVP depending on bedroom size and geographic region. If the rent requested by the owner exceeds this limit or ceiling, it cannot be approved, even if the tenant is willing to pay the difference between the rent demanded and the ceiling rent. You can use your voucher anywhere in the state, but you cannot relocate to another city or town if the apartment is located in an area where 40% or more of the people live at or below the Federal Poverty Level.⁴⁹ See the **Reference Materials** at the end of this booklet for the Federal Poverty Levels for 2004. You cannot use an AHVP voucher outside of Massachusetts.

As with the MRVP tenant-based voucher program, you can have your assistance terminated if you fail to comply with program rules, but you are entitled to a hearing process with the housing agency to contest this action.⁵⁰

DMH rental assistance program

The Department of Mental Health (DMH) also operates a state-funded rental subsidy program, separate from the MRVP and AHVP programs.⁵¹ Some of this assistance is tenant-based, and some is project-based. You must be eligible for state public housing tenant selection criteria and also be in need

of supportive residential services as determined by DMH. Service providers select residents to occupy eligible units, and the local housing authority determines the rent and pays the subsidy. Your rent is set at 30% of income if you pay for some or all utilities, and 35% of income if you do not pay for any utilities.

Specialized Section 8 voucher programs

In addition to the Housing Choice Voucher Program, there are some other types of Section 8 vouchers in use that have specific purposes. They include:

□ Section 8 Mainstream Program for people with disabilities

Some housing authorities have obtained additional funding for Section 8 vouchers for households where one or more family member has a disability. The waiting list for Mainstream Program vouchers is usually shorter than for other types of Section 8 vouchers. Only a family that is income eligible and includes a person with a disability may receive a Mainstream Program voucher.⁵²

- For more information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/pwd/mainstream.cfm.

□ Section 8 Family Unification Program

Some housing authorities, including the Boston Housing Authority and DHCD, have obtained extra funding from HUD for the Family Unification Program. It is for two groups of people: (1) battered women and their children who have been displaced because of battering and who have not secured permanent housing large enough for the entire family; and (2) families with children in foster care placement who have substantially complied with all the Department of Social Services (DSS) service plan tasks, but who do not have permanent or adequate housing to which their children can be returned. Clients must have an open DSS case and must be referred by DSS.⁵³

- For information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/family.cfm.

□ Section 8 Family Self-Sufficiency (FSS) Program

The Family Self-Sufficiency program is open to all households that have a Section 8 voucher. The way it works is that a housing authority enters into a five-year contract with a participating family, and with the participant establishes goals and describes the various work-related activities which the participant agrees to do. As the participant's income and rent share increase, an escrow account is established by the housing authority to set aside funds for the participant at the end of the program. Upon successful completion of the program, the participant can use these funds for any purpose, such as homeownership, starting a business, paying off loans, or going back to school. The participant is also able to use the money in the escrow account during the

five-year contract term as long as it is for work-related purposes, such as paying car insurance, buying a uniform, or enrolling in a job-related course.⁵⁴

- For a helpful question-and-answer handout about FSS, go to: www.cbpp.org/3-23-04hous.htm.
- For information from HUD about the FSS program, go to: www.hud.gov/offices/pih/programs/hcv/fss.cfm.

□ **Section 8 Welfare-to-Work (Job-Link) Program**

HUD has allocated a significant number of Section 8 vouchers to the Boston Housing Authority and to DHCD to support families who are transitioning from Transitional Aid to Families with Dependent Children (TAFDC) to employment. DHCD's program is called Job-Link. To be eligible, participants must be receiving, or have recently received, TAFDC benefits and either be employed or be engaged in a welfare-to-work training or employment plan. This program is in the process of being phased out due to lack of continued funding from HUD.

- For more information from HUD about this program, go to: www.hud.gov/offices/pih/programs/hcv/wtw/index.cfm.

□ **Section 8 Homeownership Option**

Housing authorities may choose to participate in the Section 8 homeownership option and use their regular Section 8 vouchers to cover homeownership expenses for a home that the participant has purchased.⁵⁵ Housing authorities may establish their own eligibility criteria for this program in their *Annual Plan*, which apply in addition to minimum criteria required by HUD. The participant must obtain financing elsewhere and find other means to cover down payment and closing costs. There is a 10-year maximum time limit on assistance; however, special exceptions on eligibility criteria and the length of assistance may apply to elderly/disabled participants.⁵⁶ To find out if your community has a Section 8 Homeownership Program, contact your public housing authority or the HUD Boston office.

- For more information from HUD about this program, go to: www.hud.gov/offices/pih/programs/hcv/homeownership/.

□ **Section 8 Project-Based Voucher (PBV) Program**

Each housing agency that administers a Section 8 voucher program is permitted to set aside up to 20% of its Section 8 inventory for *project-based* assistance which is linked with particular buildings. The housing agency may admit applicants from its regular Section 8 voucher list, or it may have a special PBV waiting list. If you have PBV assistance, your rent is limited to 30% of income, and you can be evicted only for good cause. After the first year of occupancy, you can request to relocate and to be issued a *tenant-based*

Section 8 voucher. If a voucher is not immediately available, you should get *priority* to receive the next voucher or other tenant-based rental assistance that becomes available.⁵⁷

- For more information from HUD about this program, go to:
www.hud.gov/offices/pih/programs/hcv/project.cfm/.

❑ **Section 8 Veterans Affairs Supported Housing (VASH) Program**

This is a DHCD pilot program established by HUD and the Department of Veterans Affairs (VA). The program is targeted to homeless disabled veterans who are Section 8 eligible and who have had severe psychiatric and/or substance abuse disorders. Participants must agree, as a condition for the subsidy, to participate in ongoing treatment. Case management and clinical services are provided by VASH. All applicants must be referred to DHCD by VASH staff. Subsidies are distributed throughout Greater Boston and the North Shore regions.⁵⁸

❑ **Section 8 Housing Options Programs (HOP)**

HOP is a collaborative effort of the Department of Housing and Community Development (DHCD), the Department of Mental Health (DMH), the Department of Mental Retardation (DMR), the Department of Public Health (DPH), the Office of Health and Human Services (EOHHS), and the Mass. Rehabilitation Commission (MRC). The program combines Section 8 vouchers with support services. HOP subsidies are allocated by disability with appropriate services provided to each disability group. Clients must be disabled persons who are homeless or living in transitional housing, and must be referred to DHCD by the lead service agency, the Justice Resource Institute (JRI) Health staff.

- For more information, go to: www.jri.org.

❑ **Section 8 Grandfamilies Program**

DHCD and the Boston Housing Authority have set aside some of their Section 8 funds for low-income elderly or near elderly households (where the head of household is 50 years of age or older) that have custodial responsibility for raising young children. The program is operated in the Greater Boston area, and all applicants must be referred by staff from a local service agency (Boston Aging Concerns Old and Young United).

- For information, go to:
www.bostonhousing.org/www.bostonhousing.org/detpages/hservices96.html.

❑ **Designated vouchers**

In some instances, federal law permits housing authorities and owners of certain project-based Section 8 multifamily housing to restrict the number of

non-elderly disabled households that can occupy elderly/disabled public or assisted housing.⁵⁹ When HUD has permitted this, it usually also authorizes an additional set-aside of Section 8 vouchers for regional nonprofit housing agencies or for the housing authority designated for non-elderly disabled households whose housing opportunities are limited due to the restrictions. You need to inquire at your regional nonprofit housing agency or local housing authority whether it has such vouchers.

- For more information from HUD about designated vouchers, go to: www.hud.gov/offices/pih/programs/hcv/pwd/designated.cfm.

Federal HOME tenant-based rental assistance program

The HOME program, a federally funded housing program that is not part of the Housing Choice Voucher Program, provides funding directly to states, cities, and towns for a variety of housing purposes, including tenant-based rental assistance. If the state, city, or town has chosen to use HOME funds in this manner, it must have written tenant selection policies and criteria. The term of the rental assistance may not exceed 24 months, but it may be renewed if there are sufficient funds. The lease term must be for at least one year, and can be terminated only for *good cause*. Rent is generally set at 30% of adjusted income.⁶⁰

5. What types of multifamily subsidized housing programs are there?

Multifamily subsidized housing is owned and operated by private owners. If you are a tenant in multifamily housing, you cannot take the subsidy someplace else. It stays with the development.

The ownership may be for-profit or nonprofit. Owners receive subsidies from the government to lower the cost of their mortgages or to rehabilitate existing housing or build new apartments. In exchange, they are required to set aside a certain percentage of apartments as affordable for low- and moderate-income people.

Most multifamily developments are *mixed income housing*. This means that some apartments are subsidized and some are market-rate apartments. Sometimes, however, all of the apartments are subsidized. Multifamily housing may also be subsidized by more than one program. For example, there may be a mix of subsidies, such as a *deep subsidy*, in which rent is set at

roughly 30% of your income, and a *shallow subsidy*, in which the rent is below market level, but is not based on a percentage of your income. The best way to figure out the rent of an apartment is to contact the owner or manager and ask what programs subsidize the housing and what type of subsidy is involved (deep or shallow). You can also check your lease, your *annual recertification* papers, and any other papers the landlord gave you when you first moved in. Sometimes this will help you figure out what kind of subsidy you have.

There are many different types of multifamily housing programs in Massachusetts, each with its own rules, income limits, and affordability restrictions. What follows is a summary of the major multifamily programs.

Federal multifamily subsidized housing

In federal multifamily housing, the owner has a contract directly with the U.S. Department of Housing and Urban Development (HUD). HUD provides rental subsidies, below-market interest financing, mortgage insurance, or other forms of assistance. In exchange, the owner agrees that during the term of such assistance, the property is subject to low-income use restrictions. There are approximately 71,000 affordable apartments in Massachusetts funded through federal multifamily programs. You can contact HUD's Boston regional office at 617-994-8200 to get a complete list of multifamily developments with contact information for each development. HUD can also send you a booklet containing a lot of this information.

- For data generally on HUD's multifamily housing developments, go to: www.hud.gov/offices/hsg/mfh/mfdata.cfm.
- For an inventory of all of HUD's multifamily housing for elderly or disabled families, go to: www.hud.gov/offices/hsg/mfh/hto/inventoriesurvey.cfm.

If an owner is not complying with HUD requirements, HUD can be contacted but it usually provides only limited oversight. HUD handbooks describe the form of the lease and detail a lot of the procedures to be followed in admitting applicants and determining rents.⁶¹ All HUD multifamily developments follow similar eviction requirements, and the owner must have *good cause* for eviction based on a breach of the lease.⁶² HUD also has tenant participation requirements, providing tenants and tenant organizations with certain rights and protections.⁶³ The primary federal multifamily housing programs are:

□ **Section 221(d)(3) and (d)(4) (BMIR) multifamily housing**

HUD subsidizes an owner's mortgage by lowering the mortgage interest rate. Properties subsidized under this program are sometimes referred to as Below Market Interest Rate (BMIR) property. Rents are not based on a percentage of a tenant's income, but are a flat amount that HUD approves.⁶⁴ However, in a

number of these developments, there may be other rental assistance under the rent supplement or Section 8 project-based assistance programs for some or all apartments that will change these rent rules.

- For more information from HUD about this program, go to: www.hud.gov/offices/hsg/mfh/progdesc/rentcoopsg221d3n4.cfm.
- For a fact sheet on how rents are calculated for the below-market interest rate properties, go to: www.hud.gov/offices/hsg/mfh/gendocs/factsbmir.pdf.

□ **Section 236 multifamily housing**

HUD subsidizes the interest on an owner's mortgage. HUD sets a basic rent and you must pay at least either the basic rent or 30% of income, whichever is higher.⁶⁵ However, the development may get other forms of rent subsidy under the rent supplement, Section 236 RAP, or Section 8 project-based assistance programs.

- For a fact sheet on how rents are calculated for the regular Section 236 program, go to: www.hud.gov/offices/hsg/mfh/gendocs/facts236.pdf.

□ **Section 236 Rental Assistance Program (RAP)**

This is an early form of rental subsidy that was used for up to 20% of the units in Section 236 developments prior to the Section 8 program. Some developments still have Section 236 RAP assistance. With this subsidy, your rent is set at 30% of income.⁶⁶

- For a fact sheet on how rents are calculated for the Section 236 RAP program, go to: www.hud.gov/offices/hsg/mfh/gendocs/factsrap.pdf.

□ **Rent supplement program**

This is an early form of rental subsidy that was used in Section 221(d)(3) and Section 236 developments prior to the Section 8 program. Some developments still have rent supplement assistance. Your rent is the higher of either 30% of income or 30% of the gross rent.⁶⁷

- For a fact sheet on how rents are calculated for the rent supplement program, go to: www.hud.gov/offices/hsg/mfh/gendocs/factsrentsup.pdf.

□ **Project-based Section 8 assistance for multifamily housing**

Starting in the mid-1970s, HUD made project-based Section 8 assistance available for multifamily housing—for new construction, for substantial rehabilitation of existing buildings, for additional assistance for Section 221(d)(3) and Section 236 developments that were having financial difficulty (also called loan management set-aside), and for sale of multifamily

developments (property disposition) that HUD had acquired when the owners went into default. The term of these Section 8 subsidy contracts can vary from 5 to 40 years. Rent is set at 30% of your income.⁶⁸ This is a very large and important resource.

Note: This program is different from the Section 8 Project-Based Voucher (PBV) discussed above. It is easy to mix up the programs due to the similarity in names. This Section 8 assistance, however, does not come from a housing agency's regular Section 8 voucher inventory, but is from the owner's direct Section 8 contract with HUD.

- For a fact sheet on how rents are calculated for the Section 8 project-based assistance programs, go to:
www.hud.gov/offices/hsg/mfh/gendocs/facts_sec8.pdf.

□ **Section 202 housing for seniors and people with disabilities**

HUD provides grants or loans to nonprofits to construct or rehabilitate housing for seniors and people with disabilities. The Section 202 program evolved into a program that was renamed Supportive Housing for Elderly, which was only for seniors where one or more people in the household were 62 or older. Usually there is a form of Section 8 project-based assistance tied to the development, and rent is set at 30% of income.⁶⁹ There are currently 9,650 apartments in Section 202 developments.

- For more information from HUD about this program, go to:
www.hud.gov/offices/hsg/mfh/progdesc/eld202.cfm.

□ **Section 811 housing for people with disabilities**

This program provides supportive housing for people with disabilities who are very low-income. Here again, usually there is a form of Section 8 project-based assistance tied to the development, and rent is set at 30% of income.⁷⁰

- For more information from HUD about this program, go to:
www.hud.gov/offices/hsg/mfh/progdesc/disab811.cfm.

Expiring use

Many multifamily developments are facing what is called an *expiring use* problem. These developments received *mortgage* insurance or financing or signed project-based subsidy contracts that required owners to keep rents affordable for up to 40 years. In some cases, owners could pay off the subsidized mortgage earlier (*pre-pay*). In other cases, the owner and HUD might not agree to renew the subsidy contract. If either of these happens, the restrictions that keep rents affordable may be lost and rents can be raised to market rate. A number of owners in Massachusetts have pre-paid or attempted to pre-pay. Other developments are coming to the end of their use restriction period or subsidy contracts.

Expiring use not only can result in displacement of tenants, but can result in the loss of affordable housing opportunities for applicants. You are not powerless in this situation. A combination of legal strategies and organizing efforts may be successful.⁷¹ If you are facing this problem, you should contact your local Legal Services program.

- To get a list of expiring use properties in Massachusetts, go to: www.chapa.org/expiring.html.

Enhanced (sticky) vouchers

If a federal multifamily development has had its mortgage pre-paid or if an owner has refused to renew the project-based subsidy contract, there is also a program called the Enhanced Voucher program. It is designed to help protect tenants already in the development from displacement. (Sometimes these are also called “sticky vouchers,” because they are intended to help tenants remain or “stick” in their housing.) The voucher looks a lot like a regular Section 8 tenant-based voucher and is administered by a housing agency. However, it can pay a higher rent than would ordinarily be the case if it is used at the development. While you are at the development with your Enhanced Voucher, the owner must always have *good cause* to evict you or to not renew your lease. If you move out, the voucher’s value changes to that for a regular Section 8 voucher, and regular Section 8 eviction rules apply. Some special rent rules apply to Enhanced Vouchers so that tenants’ rents are generally similar to those previously in effect. Tenants at the development will be notified of the need to apply for the vouchers in order to qualify for continued assistance.⁷²

Section 8 Moderate Rehabilitation Program

A number of apartments are subsidized under the Section 8 Moderate Rehabilitation (or “mod rehab”) program. In exchange for providing a moderate level of rehabilitation to a property, the owner is provided a rent subsidy for a number of years by the local housing authority or a regional nonprofit housing agency.⁷³ Some Section 8 mod rehab funds are part of the McKinney program and are targeted for single room occupancy (SRO) units for the homeless.⁷⁴

You must apply through the local housing authority or a regional nonprofit housing agency, and you must regularly report to that agency regarding your income and household composition. Your rent is limited to 30% of income and cannot be higher, as it can with the regular Section 8 voucher program. The owner can evict (or not renew your lease) only for *good cause*. The housing agency can, however, terminate your subsidy if you have violated Section 8 program rules (such as not properly reporting your income or family composition or engaging in fraud).⁷⁵

As with the multifamily housing program, this subsidy is tied to the building, and cannot be used by the tenant to relocate to another location. If the tenant moves out or is evicted, she loses the subsidy. If the property can no longer be subsidized under these programs because it is not up to code or the owner or HUD or DHCD decides not to renew or extend the subsidy, the tenant will be eligible for a regular tenant-based voucher.

HOME Program (other than tenant-based rental assistance)

The state or a city or town that gets HOME assistance may choose to use it to help create or preserve affordable housing developments, rather than for tenant-based rental assistance. This funding may be linked with other sources, such as tax credits or project-based Section 8 vouchers. There are maximum rents for HOME housing, and they may not exceed 30% of what 65% of the area median income would be. In rental projects with five or more HOME-assisted units, 20% of the HOME units must be occupied by families with incomes at or below 50% of area median income, with rents set either at 30% of the tenant's actual income or at 30% of 50% of the area median income. There are special applicant and tenant protections for HOME assistance, including use of written tenant selection criteria, requiring a lease with a term of at least one year, *good cause* eviction protections, and the requirement for a 30-day notice to terminate the tenancy.⁷⁶

MassHousing multifamily subsidized housing

Through MassHousing, a state housing agency (formerly known as Massachusetts Housing Finance Agency, or MHFA), private owners get money to develop affordable housing. These funds can come from the state or the federal government, or sometimes both.

MassHousing developments are often subsidized under the federal multifamily programs discussed above. In addition, there are three primary state programs that fund multifamily housing through MassHousing:

□ Section 13A Interest Subsidy

A mortgage interest subsidy provided to about 60 privately owned developments that reduced rents for about 6,000 apartments. The number of 13A apartments has decreased in recent years because some owners have chosen to prepay their 30- to 40-year mortgages after 20 years and end the subsidy and the restrictions that keep apartments affordable.⁷⁷

□ State Housing Assistance for Rental Production (SHARP)

A subsidy program to private developers that provided 30-year subsidized mortgages and loans to bring financing costs down in order to create mixed-income rental housing. Eighty-two projects with about 3,300 apartments for

low-income households were created by SHARP.⁷⁸ Owners have to keep at least 25% of the apartments affordable to low-income households *in perpetuity*, although they can sell the developments at the end of the 15-year loan period to either the state or another buyer willing to keep the affordability restrictions. The 15-year loans began expiring in 2000, and the last contracts will expire in 2007.

□ **Rental Development Action Loan Program (RDAL)**

A program that provided subsidized loans to develop or preserve 21 developments with about 1,300 affordable apartments. Most of these developments are subsidized by other programs as well. Subsidy contracts will begin to expire between 2005 and 2010, at which point other programs must be considered to ensure continued affordability.⁷⁹

MassHousing provides oversight for developments financed through these programs. To figure out whether the housing is financed through MassHousing, you can check their website or ask that MassHousing send you a book listing all of its developments. Unfortunately, this information does not necessarily tell you much about the types of subsidies involved and how rents are set for different apartments. You may be able to get additional information about a particular development by contacting a management analyst at MassHousing. If you have a dispute with the development owner, you may be able to get MassHousing to intervene in resolving it.⁸⁰

- For more information, go to: www.masshousing.com.

Project-Based Mass. Rental Voucher Program (non-mobile)

Both MassHousing developments and some other housing developments may rely on the use of *project-based* MRVP assistance. Project-based MRVP assistance can include developments with moderate rehabilitation (mod rehab). Project-based vouchers stay with a particular housing development and are not *tenant-based* or mobile. In particular, there are designated Low-Income Set-Aside units in certain developments where Project-based MRVP is used. The Section 13A, SHARP, and RDAL programs (see above), as well as tax-related programs (see below) and a number of smaller programs all have used this assistance.⁸¹

Applicants apply to a project-based MRVP waiting list which a housing agency has established. MassHousing also gives a transfer *preference* for existing tenants in its developments who must relocate due to excessive rent burden or other *good cause* and who need a more affordable apartment. Low-Income Set-Aside units are to be marketed to individuals and families who have mobile Section 8 or MRVP vouchers. If sufficient applicants can not be found that way, the housing agency can request that DHCD and MassHousing

approve the assignment of a project-based MRVP voucher to the development.⁸²

If you have a tenant-based MRVP and move into a Low-Income Set-Aside unit, you can either keep the *tenant-based* MRVP or can give it up for a *project-based* voucher. If you give up the voucher, you lose mobility, but there may be advantages on your rent level. Rent is set at 35% of income for the project-based MRVP program if you do not pay for utilities, and 30% of income if you pay for some or all utilities.⁸³

You can be evicted from a project-based MRVP apartment only for good cause, and the owner must show good cause to not renew your lease.⁸⁴

Tax-related programs for affordable housing

Several tax-related programs have been developed to help create or preserve affordable housing:

- ❑ The federal Low-Income Housing Tax Credit program,
- ❑ A similar state Low-Income Housing Tax Credit program, and
- ❑ The TELLER Program.

These programs have been used in many different types of housing, including redevelopment of public housing, rehabilitation or preservation of multifamily housing, and development of new affordable housing. You need to know what other programs and subsidy rules apply in order to know your rights.

❑ **Federal Low-Income Housing Tax Credit Program (LIHTC)**

The federal Low-Income Housing Tax Credit program is a **federal** program created in 1986 that has funded about 23,555 affordable apartments in Massachusetts.⁸⁵ Under the program, private owners raise money to develop and operate affordable rental housing by selling federal tax credits to investors. These tax benefits are distributed through state housing agencies, such as DHCD and MassHousing. In return for tax credits, participating developers agree to reserve a percentage of the apartments for low-income families. There are two alternative types of rent restrictions: 40% of the apartments must be affordable to those with incomes at or below 60% of the *area median income*; or 20% of the units must be affordable to those with incomes at or below 50% of area median. The apartments generally must remain affordable for at least 30 years.

Unlike public housing or vouchers, tax credit rents do not change based on changes to family income unless some other subsidy rules apply to the program. These flat rents are often not affordable to those with lower

incomes. However, an owner of a federal tax credit development has an affirmative duty to accept Section 8 tenant-based vouchers for available apartments.⁸⁶ Applications are taken at each privately owned development or building. There are some special tax credit rules about eligibility for students, but many low-income individuals who are students may fit into exceptions so that they are eligible.⁸⁷ You can be evicted only for *good cause* from these developments.⁸⁸

□ **State Low-Income Tax Credit Program**

In 1999, Massachusetts passed a **state** low-income tax credit program. The state program is run by DHCD and has features that are similar to the federal low-income housing tax credit program.⁸⁹

□ **Tax-Exempt Local Loans to Encourage Rental Housing (TELLER)**

As opposed to an older state program that allowed housing agencies the option of issuing tax-exempt bonds to finance privately owned mixed-income rental housing, developments financed with TELLER bonds must have a minimum of 20% of the apartments set aside for households earning less than 50% of area median income. If 40% of the apartments are set aside, the household income level can be at 60% of area median income. While apartments are not being newly created through this program, there are still a few TELLER developments in Massachusetts.⁹⁰

Programs by Type of Need

6. What programs fund housing for people who are homeless?

People who are homeless are eligible for public and subsidized housing. They may also qualify for *priority* due to their homelessness. See **Booklet 4: Who Has Priority**.

In addition, the federal government provides special funding for housing specifically for homeless individuals and families. Some of these programs are shelters; some are transitional housing; and some are permanent housing. These programs are funded through the McKinney Housing Programs.⁹¹

For all of the McKinney housing, participants must meet the definition of homeless individuals. This includes people who are in shelter or transitional housing, or are otherwise without a fixed place to live. This does not include individuals who are currently incarcerated. There is also a requirement that homeless individuals be involved in setting policies for the entities that receive the McKinney grants.⁹²

What follows is a description of the primary McKinney Housing Programs.

Shelter Plus Care

This program provides rental assistance for hard-to-serve homeless people with disabilities, primarily those who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or who have HIV/AIDS, and their families.⁹³ Rental assistance is linked to supportive services funded through other programs. The program gives tenants the option of selecting their own apartment or residing at a property receiving the subsidy. The subsidy can be provided in any of three ways:

□ Tenant-based rental assistance

This subsidy is a 5-year grant that provides a person with a tenant-based voucher. The subsidy stays with the tenant. Participants may be required to live in a specific area for the entire period of their participation or in a specific structure for the first year and in a specific area for the remainder of the

period of participation if it is necessary to coordinate supportive services. You are required to find your own apartment, unless you are required to live in a specific structure.

□ **Project-based rental assistance**

This subsidy is not mobile. It is a 5- to 10-year grant that is tied to property, and the landlord must have done some rehabilitation work on the property.

□ **Sponsor-based rental assistance**

This subsidy is a 5-year grant that is tied to the property owned or leased by a sponsor, which can be a private nonprofit organization or a community mental health agency.

You apply for the Shelter Plus Care program through the social service agency that runs it. Housing search workers in your area should know where you can apply.

You must sign an occupancy agreement for a term of at least one month. This agreement must be automatically renewable upon expiration, except on prior notice by either party. The state, locality, or housing agency that applied to HUD for the Shelter Plus Care subsidy may terminate a tenant from a Shelter Plus Care program for violations of program requirements or conditions of occupancy. The law does not specify what these requirements or conditions are, other than the requirement to take part in supportive services provided through the program.⁹⁴ In deciding to terminate a tenant from the program, the state, locality, or housing agency must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination, so that a participant's assistance is terminated only in the most severe cases.⁹⁵ The state, locality, or housing agency is required to provide a formal process, consisting of a minimum of giving the tenant written notice containing a clear statement of grounds leading to the termination, a review of the decision which gives the tenant an opportunity to raise objections, and prompt notice of any final decision.⁹⁶

- For more about the Shelter Care program from HUD, go to: www.hud.gov/offices/cpd/homeless/programs/splusc/index.cfm.

McKinney Supportive Housing Transitional Housing

This program is designed to help homeless individuals and families transition into permanent housing. Although the original intent was to have participants move to permanent housing within two years, a homeless individual or family may remain in transitional housing for a longer period if permanent housing has not been located or if the individual or family needs additional time to prepare for independent living. HUD may, however, discontinue assistance for the project if more than half of the homeless families or individuals remain in the project more than 24 months.⁹⁷ You apply for the McKinney Supportive Housing programs through the social service agencies that operate them. Housing search workers in your area should know where you can apply.

In this program, rent is charged at 30% of adjusted income, and individuals or families must be offered supportive services. The law, however, does not require participation in services. The program includes on-site residential supervision.⁹⁸ If assistance is to be terminated, the same due process protections apply as with the Shelter Plus Care program.⁹⁹

McKinney Supportive Housing Permanent Housing for Homeless People with Disabilities

This is permanent housing that provides supportive services to tenants to enable them to live independently in their apartments and includes on-site residential supervision. Rent is set at 30% of adjusted income, and tenants have the same due process protections as if they were in the Shelter Plus Care program.¹⁰⁰

McKinney Section 8 SRO Moderate Rehabilitation Program

As discussed under the Section 8 moderate rehabilitation program, this is a special Section 8 mod rehab program focused on homeless individuals who need single room occupancy (SRO) units. It is administered by local housing authorities and regional nonprofit housing agencies. Applicants may be drawn from the housing authority's general Section 8 waiting list, but they will need to show that they meet the McKinney definition of homelessness. Supportive services are generally to be made available to tenants, but acceptance of these services is not an eligibility requirement.¹⁰¹

7. What housing is available for people with disabilities?

People with disabilities are eligible to apply for public, subsidized, and voucher housing programs and, in some instances, may qualify for *priority* due to a disability. See **Booklet 4: Who Has Priority**. People with disabilities may also be entitled to certain *reasonable accommodations*. For more information, see **Booklet 10: Reasonable Accommodations**.

A housing agency or subsidized landlord may be required to set aside a certain number of accessible apartments for people with mobility impairments (for example, households that require a wheelchair-accessible unit) and to transfer tenants who are in those apartments who do not require those accessibility features. Historically, 5% of the apartments in MassHousing multifamily developments (about 2,200) and 10% of the apartments in elderly developments (about 2,600) have been set aside for wheelchair accessibility or to accommodate other mobility limitations.¹⁰² You need to ask the housing authority or subsidized landlord if apartments are set aside.

In addition, there are many programs specifically designed to provide affordable housing to people with disabilities. What follows is a list of major programs for people with disabilities. These programs are described in other questions:

- ❑ Federal elderly and disabled public housing
- ❑ State elderly and disabled public housing (Chapter 667 Housing)
- ❑ Alternative Housing Voucher Program
- ❑ Section 202 subsidized multifamily housing
- ❑ Section 8 Mainstream Vouchers
- ❑ Section 8 Designated Housing Vouchers
- ❑ Section 8 Housing Options Program
- ❑ McKinney Shelter Plus Care
- ❑ McKinney Supportive Housing
(Permanent Housing for Homeless People with Disabilities)

8. What housing is available for people with AIDS?

Housing Opportunities for Persons with AIDS (HOPWA)

The HOPWA program was developed for people with AIDS or related diseases.¹⁰³ HOPWA funds come from the federal government and can be used for a variety of purposes, including short-term shelter, payments to cover rent that is owed, community residences, or longer-term rental assistance. Rent is generally set at 30% of adjusted income.¹⁰⁴ All applicants must be referred to regional nonprofit housing agencies by social service agencies under contract with the Department of Public Health (DPH).

Tenants may be terminated from the program for violations of program requirements or conditions of occupancy.¹⁰⁵ Like the Shelter Plus Care Program, HOPWA has established a termination procedure for tenants from the program.

- For additional information about housing options available for people with AIDS, go to AIDS Housing Corporation's website at: www.ahc.org. They have an excellent handbook called *How to Get a Place Called Home* that is available in English, Spanish, and Creole.
- For information about Massachusetts HOPWA programs, go to: www.hud.gov/offices/cpd/aidshousing/local/ma/index.cfm.

9. What housing is available for people with mental health needs?

People receiving case management services from the Department of Mental Health (DMH) or the Department of Mental Retardation (DMR) may be eligible for a special housing set-aside for people with mental disabilities. There are three primary programs.

MassHousing set-aside

Approximately 3% of the apartments in MassHousing multifamily housing are set aside for clients of DMH or DMR. Tenants are referred to these apartments by DMH or DMR. Contact MassHousing for a list of the

developments and the contact persons at DMH and DMR. Ongoing case management and stabilization services are generally provided for people participating in this program.

DMH rental assistance program

As discussed in **Question 4**, there is a special DMH rental assistance program for people with mental disabilities which is operated by DHCD through local housing authorities or regional nonprofit housing agencies. This is usually *project-based*. Referrals are made by DMH housing staff.¹⁰⁶

DMH community residential programs

DMH provides limited housing in residential community settings to people for whom it is providing case management services, ranging from emergency shelter to transitional and permanent housing. If a participant is required to leave one of these programs, she has the right to seek a review through the Human Rights Committee or the DMH Area Office. DMH also has the obligation to offer an alternative placement.¹⁰⁷

Some of the housing under these programs is just like an apartment, while other housing may involve shared facilities. The provider may be able to choose to evict the tenant through an eviction action or by using the state's Community Residence law, which requires a hearing.¹⁰⁸ For more information about this law and eviction protections for people living in DMH housing, go to: www.MassLegalHelp.org/housing/rooming-houses.

Chapter 689 and Chapter 167 housing

Chapter 689 housing is public housing for adults with special needs. The current focus is on creating group homes for adults with mental disabilities leaving facilities run by DMH. Chapter 167 housing provides housing for people with chronic mental illnesses. The current program provides housing for people leaving state mental health hospitals. There are 1,882 units of Chapter 689 and Chapter 167 apartments in Massachusetts. Although housing authorities do not select tenants for these properties, they own the properties and contract with DMH or DMR to staff the housing.¹⁰⁹

10. What housing is available for seniors?

Seniors are eligible to apply for any of the public, subsidized, and voucher housing programs. In addition, there are many programs specifically designed to provide affordable housing to seniors and people with disabilities. Some are

funded by the federal government and some by the state. Here are the various types of housing available for seniors:

- ❑ Federal elderly and disabled public housing
- ❑ State elderly and disabled public housing (Chapter 667 housing)
- ❑ Federal Section 202 multifamily subsidized housing designated for elders
- ❑ MassHousing Elder Choice Program
- ❑ MassHousing Assisted Housing Set-Aside
- ❑ Section 8 Grandparent (Raising the Next Generation) Program

MassHousing Elder Choice

This program offers subsidized financing and low-income housing tax credits to developers of assisted living residences who set aside 20% of the units for low-income frail seniors (with incomes under 50% of the *area median income*). There are 14 developments with over 300 affordable units in Massachusetts. For information, call MassHousing at 617-854-1000.

11. What housing is available for families?

Families are eligible for different types of public and subsidized housing. Because waiting lists are long, you should apply for as many of these programs as interest you to increase your chances of obtaining affordable housing. The following is a list of programs for families that are described in other questions:

- ❑ State and Federal Public Family Housing
- ❑ Federal Multifamily Subsidized Housing
- ❑ MassHousing Multifamily Subsidized Housing
- ❑ Moderate Rehabilitation (Mod Rehab) Programs
- ❑ Section 8 Housing Choice Voucher Program
- ❑ Section 8 Family Self-Sufficiency (FSS) Program
- ❑ Section 8 Homeownership Option
- ❑ Massachusetts Rental Voucher Program
- ❑ Low-Income Housing Tax Credit Housing
- ❑ Section 8 Family Unification Program (FUP)
- ❑ Section 8 Welfare-to-Work (Job-Link) Program
- ❑ Section 8 Grandparent (Raising the Next Generation) Program
- ❑ Federal HOME Tenant-Based Rental Assistance Program

Leases and Deposits

12. Do I have to sign a lease in public or subsidized housing?

Yes. All federal and state public housing tenants must have a written lease that is signed by both you and the housing authority.¹¹⁰ If you do not sign a lease or a lease revision, the housing authority can start eviction proceedings against you.¹¹¹

For Section 8 and MRVP tenants with *tenant-based* vouchers, you must sign a lease with your landlord and it must include an attachment called a lease “Addendum.”¹¹² For multifamily housing, you must also sign a lease, sometimes called an “Occupancy Agreement.”¹¹³ Low-income housing tax credit and HOME properties will usually require a written lease initially, although some may change to a month-to-month arrangement at the end of the written lease.¹¹⁴ The Shelter Plus Care program requires an occupancy agreement, but it has a month-to-month term.¹¹⁵

Before you sign a lease, be sure that you read it and understand it. If there is any part that you do not understand, ask your landlord or a housing authority staff person to explain it to you. If you need to, you may take the lease home and go over it with a friend, family member, or an advocate.

13. Do I have to pay a security deposit or last month’s rent when moving into public or subsidized housing?

That depends on the kind of housing where you will live.

For federal public housing, the housing authority is allowed to charge a security deposit not more than one month’s rent, or a standard fixed amount not greater than one month’s rent.¹¹⁶ There is no provision for charging a security deposit in state public housing, unless you ask to have a pet.¹¹⁷ There is no provision for charging a last month’s rent in either state or federal public housing.

For federal multifamily subsidized housing, a security deposit can be charged, but it is usually limited to the tenant's portion of the rent. Rules on what exactly can be charged vary by program. There is no provision for charging a last month's rent.¹¹⁸

For the Section 8 tenant-based voucher program, your landlord is allowed to charge you one month's full contract rent for a security deposit. The security deposit is not limited to your portion of the rent.¹¹⁹ While there is no provision for charging a last month's rent, there is nothing specifically in federal regulations that would prohibit this. If an owner demands a last month's rent, it should be limited to your portion of the rent, since the owner will be paid by the housing agency for its portion of the rent for your last month.¹²⁰

MRVP regulations are not clear on whether or how much of a security deposit can be charged. When the program was first established in the early 1990s, DHCD guidance was that a security deposit could be charged, but it was limited to the tenant's portion of the rent, and the program also paid for vacancy losses to the owner. It is likely that the same rules apply for security deposits and last month's rent as for the Section 8 voucher program.

Reference Materials

14. Find the Law for Key Housing Programs

Public Housing	
Federal Public Housing	42 U.S.C. §§ 1437a et seq. 24 C.F.R. Parts 5, 960, 964, 965, 966, Public Housing Occupancy Guidebook
<input type="checkbox"/> Family public housing	42 U.S.C. § 1437a-e 24 C.F.R. Parts 5, 960, 966
<input type="checkbox"/> Public housing for seniors and people with disabilities	42 U.S.C. § 1437a(b)(3)(D)-(E) 24 C.F.R. § 5.403
State Public Housing	
<input type="checkbox"/> Family public housing (Chapter 200)	G.L. c. 121B, §§ 32 et seq. 760 C.M.R. §§ 5.00 and 6.00
<input type="checkbox"/> Family public housing (Chapter 705 Scattered Site)	G.L. c. 121B, § 34 760 C.M.R. §§ 5.00 and 6.00
<input type="checkbox"/> Public housing for seniors and people with disabilities (Chapter 667)	G.L. c. 121B, §§ 1, 39, 40 760 C.M.R. §§ 5.03, 5.07, 5.10 (1)(a) and (2)

Voucher Programs

Federal Voucher Programs	
<input type="checkbox"/> Section 8 Housing Choice Voucher Program	42 U.S.C. § 1437f(o) 24 C.F.R. Parts 5 and 982 Housing Choice Voucher Guidebook
<input type="checkbox"/> Section 8 Mainstream Program	Notices of Funding Availability (NOFAs) published in Federal Register
<input type="checkbox"/> Section 8 Family Self-Sufficiency Program	42 U.S.C. § 1437u 24 C.F.R. Part 984
<input type="checkbox"/> Section 8 Homeownership Option	42 U.S.C. § 1437f(y) 24 C.F.R. §§ 982.625-982.642
<input type="checkbox"/> Enhanced (Sticky) Vouchers	42 U.S.C. § 1437f(t)
State Voucher Programs	
<input type="checkbox"/> Massachusetts Rental Voucher Program	760 C.M.R. § 49.00
<input type="checkbox"/> Alternative Housing Voucher Program	760 C.M.R. § 53.00

Multifamily Subsidized Programs

Federal Multifamily	24 C.F.R. Parts 5 and 247, HUD Multifamily Occupancy Handbook 4350.3 CHG-1
<input type="checkbox"/> Section 221(d) Family Housing	12 U.S.C. § 1715l(d)(3) and (d)(4), 24 C.F.R. Part 221
<input type="checkbox"/> Section 236 Family Housing	12 U.S.C. § 1715z-1, 24 C.F.R. Part 236
<input type="checkbox"/> Project-Based Section 8 Programs	42 U.S.C. § 1437f, 24 C.F.R. Parts 880, 881, 882 (mod rehab), 883, 886, 983
<input type="checkbox"/> Section 202: Elderly/Disabled program	12 U.S.C. § 1701q 24 C.F.R. Part 891
<input type="checkbox"/> Section 811 Program	42 U.S.C. § 8013 24 C.F.R. Part 891
<input type="checkbox"/> Low Income Housing Tax Credit	26 U.S.C. § 42 26 C.F.R. § 1.42
State Multifamily	
<input type="checkbox"/> MassHousing (formerly Massachusetts Housing Finance Agency (MassHousing, or MHFA))	G.L. c. 23A, App. 1, § 1-2
<input type="checkbox"/> SHARP	G.L. c. 23B, §§ 25-27
<input type="checkbox"/> MRVP Project-Based	760 C.M.R. § 49.00
<input type="checkbox"/> Mod Rehab	760 C.M.R. § 49.02

Housing Programs for Specific People

Special Federal Section 8 Programs	
<input type="checkbox"/> Section 8 Family Unification Program	42 U.S.C. § 1437f(x) 24 C.F.R. Part 982
<input type="checkbox"/> Section 8 Welfare-to-Work (Job-Link) Program	NOFAs published in Federal Register
<input type="checkbox"/> Section 8 Grandparent Programs	NOFAs published in Federal Register
<input type="checkbox"/> Section 8 Veterans Affairs Supported Housing Program	42 U.S.C. § 1437f(o)(19)
<input type="checkbox"/> Section 8 Housing Options Programs	NOFAs published in Federal Register
<input type="checkbox"/> Section 8 for Victims of Domestic Violence	NOFAs published in Federal Register
Federal Housing Programs for People Who Are Homeless	
<input type="checkbox"/> Shelter Care Plus	42 U.S.C. §§ 11403-11407b 24 C.F.R. Part 582
<input type="checkbox"/> Single Room Occupancy Section 8 Moderate Rehab	42 U.S.C. § 11401 24 C.F.R. § 882, Subpart H
<input type="checkbox"/> McKinney Supportive Transitional and Permanent Housing	42 U.S.C. § 11389 24 C.F.R. Part 583
State Housing Programs for People with Mental Disabilities	
<input type="checkbox"/> MHFA 3% Set-Aside	
<input type="checkbox"/> DMH Community Residential Programs	
<input type="checkbox"/> Chapter 689 Housing	

15. Fair Market Rents in Massachusetts for 2007-2008

This table is a summary, not an official document. Fair market rents are updated at least yearly each October. To find out which area your community is in, and for the most updated information, go to: www.huduser.org.

Metro Area	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom
Barnstable	\$743	\$870	\$1145	\$1366	\$1409
Berkshire	\$590	\$662	\$764	\$1046	\$1076
Boston-Cambridge-Quincy	\$1086	\$1153	\$1353	\$1618	\$1778
Brockton	\$926	\$963	\$1213	\$1451	\$1818
Eastern Worcester	\$747	\$835	\$1099	\$1313	\$1929
Easton-Raynham	\$811	\$1074	\$1249	\$1494	\$2160
Fitchburg-Leominster	\$634	\$728	\$913	\$1118	\$1214
Franklin	\$567	\$662	\$820	\$1094	\$1321
Lawrence	\$733	\$932	\$1127	\$1346	\$1387
Lowell	\$801	\$958	\$1232	\$1471	\$1614
New Bedford	\$559	\$716	\$819	\$981	\$1324
Pittsfield	\$556	\$650	\$806	\$1036	\$1067
Providence-Fall River	\$800	\$874	\$1020	\$1221	\$1556
Springfield	\$559	\$664	\$844	\$1010	\$1172
Taunton-Mansfield-Norton	\$699	\$882	\$1077	\$1321	\$1426
Western Worcester	\$509	\$700	\$785	\$937	\$1203
Worcester	\$689	\$792	\$965	\$1154	\$1224

Non-Metro County	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom
Dukes	\$892	\$1132	\$1348	\$1611	\$1661
Nantucket	\$1044	\$1445	\$1604	\$1918	\$1976

Source: Federal Register, Vol. 72 No. 189, October 1, 2007, pp. 55940.

16. 2007 Government Poverty Guidelines

Every year, the federal government establishes poverty guidelines to determine who is financially eligible for particular programs. The chart below tells you the yearly poverty income guideline cut-offs for 2007. These figures change every year around February and are available at:

<http://aspe.hhs.gov/poverty/index.shtml>.

Household Size	100% of Poverty
1	\$10,210
2	\$13,690
3	\$17,170
4	\$20,650
5	\$24,130
6	\$27,610
7	\$31,090
8	\$34,570
Add for each additional person	\$3,480

Source: Federal Register, Vol. 72, No. 15, January 24, 2007, pp. 3147-3148.

Endnotes

- ¹ There may be circumstances where a limited liability corporation is the formal owner so that the development can take advantage of special financing, such as use of tax credits. 42 U.S.C. § 1437z-7. This may happen, for example, through the HOPE VI redevelopment process. However, the housing authority should still have ultimate control through the way that the ownership is structured, and the housing is still public housing.
- ² G.L. c. 121B, §§ 3 and 5 about the structure of housing authorities; G.L. c. 121B, § 11 about the powers of housing authorities; G.L. c. 121B, §13 about the liability of housing authorities. DHCD has created a list of all communities in Massachusetts, broken down by which ones have housing authorities, and for those which have housing authorities, what kind of housing programs they operate. To see this list, go to: www.masslegalservices.org/docs/DHCD_units_2004.pdf.
- ³ **Federal:** 24 C.F.R. § 960.253; **State:** 760 C.M.R. § 6.04.
- ⁴ Effective July 2003, tenants in state family public housing are required to pay 32% of their income if heat, cooking fuel and electricity are provided, 30% if one or more utility is provided, or 27% if utilities are not provided. G.L. c. 121B, § 32, 2nd paragraph; 760 C.M.R. § 6.04(1)(b). The statute setting rent for state elderly/disabled public housing, G.L. c. 121B, § 40(e), was not amended, but changes were made by regulation for that program to eliminate a deduction and effect cost savings. 760 C.M.R. §§ 6.04(1)(a) and 6.05(4)(a) (deduction where tenant is an elderly person or person with a disability limited to family public housing).
- ⁵ **Federal:** 24 C.F.R. § 5.609; **State:** 760 C.M.R. § 6.05.
- ⁶ **Federal:** 24 C.F.R. § 960.257; **State:** 760 C.M.R. § 6.04(5). In four situations in federal public housing, rent may not be affected. (A) **Flat Rent:** In federal public housing, the household may be paying a “flat rent” which is not based on income, and it may be that the “flat rent” is lower than what income-based rent would be. If, however, a tenant is on a “flat rent,” and an income-based rent would be lower due to a decline in income, the tenant can request to be switched to an income-based rent. (B) **Decline in Income Due to Welfare Sanction:** In federal public housing and in the Section 8 tenant-based voucher program, if the tenant’s income decreased because welfare benefits were reduced or terminated due to certain types of sanctions (failure to comply with work requirements, or fraud), the rent cannot be reduced for the period of the sanction. (C) **Pro-Ration:** If one or more household members do not have citizenship or “eligible non-citizen” status (see **Booklet 9: Immigrants and Housing**), the rent may be pro-rated, or set higher than it usually would be; therefore a decline in income may result in some adjustment to the rent, but not a full adjustment; (D) **Minimum Rent:** The tenant may already be paying a minimum rent (up to \$50/month, depending on the housing authority’s policy). See 42 U.S.C. §§ 1436 and 1437a; 24 C.F.R. §§ 5.520 (pro-ration), 5.615 (welfare sanctions), 5.630 (minimum rent), and 960.253 (flat rent).
- ⁷ See 24 C.F.R. § 982.508 (Section 8 vouchers). For the Mass. Rental Voucher Program, in 2005 the State Legislature capped the tenant’s portion of the rent to no more than 40% of income. See DHCD’s MRVP Notice 2005-1, on file at Massachusetts Law Reform Institute.
- ⁸ See 24 C.F.R. § 982.507.
- ⁹ *HUD Multifamily Occupancy Handbook* 4350.3 CHG-1 (Aug. 2004).

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- ¹⁰ 42 U.S.C. § 1436a; 24 C.F.R. Part 5, Subpart E.
- ¹¹ See 42 U.S.C. § 3602(k) (definition of familial status); 24 C.F.R. §§ 966.4(a)(1)(v) (federal public housing) and 982.551(h) (Section 8 voucher program).
- ¹² **Federal:** 24 C.F.R. § 966.4(c) & (d); **State:** 760 C.M.R. § 6.06(3)(h).
- ¹³ G.L. c. 121B, § 32; 760 C.M.R. §§ 6.03 (definition of “overhoused”), 6.04(1)(c) (sanction for failure of overhoused tenant to transfer).
- ¹⁴ **Federal:** 24 C.F.R. § 966.4(1); **State:** 760 C.M.R. § 6.06(6).
- ¹⁵ **Federal:** 24 C.F.R. §§ 982.310 and 982.314; **State:** 760 C.M.R. § 49.05(3).
- ¹⁶ 24 C.F.R. § 982.311(b); see also DHCD MRVP Notice 2001-03, on file at www.masslegalservices.org.
- ¹⁷ 24 C.F.R. § 982.310(b); *Curtis v. Surrette*, 49 Mass. App. Ct. 99, 726 N.E.2d 967 (2000).
- ¹⁸ The federal government regulates federal public housing through federal laws, regulations, and guidebooks. 42 U.S.C. §§ 1437a et seq.; 24 C.F.R. Parts 5, 960, 964, 965 and 966. In addition, state public housing laws of general application also apply. G.L. c. 121B, § 32; *Spence v. Reeder*, 382 Mass. 398, 416 N.E.2d 914 (1981) (federal public housing tenants get grievance rights in evictions as authorized by state law, even if federal law does not require it).
- ¹⁹ **Seniors:** 42 U.S.C. § 1437a(b)(3)(D); 24 C.F.R. § 5.403. **People with disabilities:** 42 U.S.C. §§ 423, 1437a(b)(3)(E), 6107(1); 24 C.F.R. § 5.403.
- ²⁰ 42 U.S.C. § 1437e.
- ²¹ G.L. c. 121B, §§ 32 et seq.; 760 C.M.R. §§ 5.00 and 6.00.
- ²² G.L. c. 121B, § 34, 760 C.M.R. § 5.00.
- ²³ G.L. c. 121B, § 34, 760 C.M.R. § 5.00.
- ²⁴ G.L. c. 121B, §§ 1, 39 and 40; 760 C.M.R. §§ 5.03 and 5.07.
- ²⁵ G.L. c. 121B, § 39; 760 C.M.R. § 5.10(1)(a) and (2).
- ²⁶ 760 C.M.R. § 5.02(2) (DHCD tenant selection procedure does not apply to Chapter 689 housing). For DMH and DMR residential services generally, see G.L. c. 19, § 19 (DMH); G.L. c. 19B, § 15 (DMR); and 104 C.M.R. § 28.15 (DMH licensing standards for residential programs).
- ²⁷ 42 U.S.C. § 1437f(o); 24 C.F.R. Parts 5 and 982.
- ²⁸ 24 C.F.R. § 982.353(c); *Williams v. Hanover Housing Authority*, 871 F. Supp. 527 (D. Mass. 1994).
- ²⁹ G.L. c. 6, § 172; 803 C.M.R. §§ 1.00 et seq.
- ³⁰ 24 C.F.R. §§ 5.609-5.611, 5.628; 24 C.F.R. § 982.508.
- ³¹ 24 C.F.R. § 982.307.
- ³² 24 C.F.R. §§ 5.609-5.611, 5.628; 24 C.F.R. § 982.508.

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- 33 24 C.F.R. § 982.303.
- 34 24 C.F.R. § 982.507. The housing agency also must write into its Section 8 administrative plan the method it uses to determine whether a rent is reasonable. 24 C.F.R. § 982.54(d)(15).
- 35 42 U.S.C. § 1437f(o); 24 C.F.R. §§ 982.4, 982.305(a)(5), 982.503, and 982.505.
- 36 Some Section 8 leases still have an indefinite renewal term. You should read your lease to see if it has this clause, because, if it does, *good cause* would always be required to terminate the lease. PIH Notice 96-23 (HA) (May 1, 1996); *Viaud v. Wright*, Boston Housing Court, No. 99-SP-01337 (Daher, C.J., May 17, 1999); *Unaegbu v. Baez*, Boston Housing Court No. 96-SP-03547 (Winik, J., July 18, 1996). In addition, renewal terms should generally be for a year's term, and the court may otherwise construe a monthly renewal term to be an indefinite term requiring good cause. See *Lambert v. Maloney*, Boston Housing Court No. 04-SP-02013 (Winik, J., Aug. 12, 2004); *Mutual Devel. Co. v. Howard*, Quincy District Court No. 0556-SU-703 (Coven, J., Nov. 7, 2005).
- 37 24 C.F.R. § 982.309.
- 38 G.L. c. 151B, § 4(10).
- 39 24 C.F.R. § 982.551-982.555.
- 40 760 C.M.R. § 49.00.
- 41 760 C.M.R. § 49.08(7).
- 42 760 C.M.R. § 49.08(1).
- 43 760 C.M.R. § 49.05; DHCD MRVP Notice 2005-1, on file at Massachusetts Law Reform Institute.
- 44 760 C.M.R. § 49.08.
- 45 760 C.M.R. § 49.09(3).
- 46 760 C.M.R. § 49.03(2); 760 C.M.R. §§ 6.02(2) and 6.08(4)(a).
- 47 760 C.M.R. § 53.00.
- 48 760 C.M.R. §§ 6.02(2) and 6.05(4)(d).
- 49 760 C.M.R. § 49.08(7).
- 50 760 C.M.R. § 53.03; 760 C.M.R. §§ 6.02(2) and 6.08(4)(a).
- 51 760 C.M.R. § 38.00.
- 52 Funds and criteria for Mainstream Section 8 vouchers are published by HUD in Notices of Funding Availability (NOFAs) in the Federal Register, and housing agencies and nonprofit organizations can apply for such funds. See, for example, 68 Federal Register 21,002 (April 25, 2003) (Super NOFA). The vouchers are administered in the same way as other Section 8 vouchers. 24 C.F.R. Part 982.
- 53 42 U.S.C. § 1437f(x).
- 54 42 U.S.C. § 1437u; 24 C.F.R. § 984.

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- 55 If a housing agency has opted not to implement a Section 8 homeownership program, it must consider the homeownership option as a reasonable accommodation for a person with a disability. 24 C.F.R. § 982.625(d)(2).
- 56 42 U.S.C. § 1437f(y); 24 C.F.R. §§ 982.625-982.643.
- 57 42 U.S.C. § 1437f(o)(13); 24 C.F.R. Part 983, as revised at 70 Fed. Reg. 59913 et seq. (Oct. 13, 2005).
- 58 42 U.S.C. § 1437f(o)(19).
- 59 42 U.S.C. § 1437e (public housing); 42 U.S.C. §§ 13611 et seq. (covered multifamily Section 8 project).
- 60 24 C.F.R. §§ 92.209, 92.216, and 92.253.
- 61 *HUD Multifamily Occupancy Handbook* 4350.3 CHG-1 (Aug. 2004).
- 62 24 C.F.R. Part 247.
- 63 12 U.S.C. § 1715z-1b; 24 C.F.R. Part 245. **Note:** The HUD tenant participation regulations now apply also to MHFA developments with federal assistance.
- 64 **Section 221(d)(3) program:** 12 U.S.C. §1715l(d)(3) and (d)(5); 24 C.F.R. Part 200 Subpart A, and Part 221, Subparts C and D.
- 65 **Section 236 program:** U.S.C. §1715z-1; 24 C.F.R. Part 236.
- 66 **Section 236 rental assistance program (RAP):** 12 U.S.C. § 1715z-1(f)(2); 24 C.F.R. Part 236, Subpart D.
- 67 **Rent supplement program:** 12 U.S.C. § 1701s. While the rent supplement regulations that used to be at 24 C.F.R. Part 215 no longer exist, HUD states that developments getting assistance under this program will continue to be governed by the regulations that were in effect prior to May 1, 1996, with a few small modifications. See 24 C.F.R. §§ 200.1302 and 200.1303.
- 68 **Section 8 project-based rental assistance:** 42 U.S.C. § 1437f; 24 C.F.R. Parts 880 (new construction), 881 (substantial rehabilitation), 883 (state agency set-aside), 886 (additional assistance and property disposition). For rent and program rules, see also 42 U.S.C. § 1437a; 24 C.F.R. Part 5; *HUD Multifamily Occupancy Handbook* 4350.3, CHG-1 (Aug. 2004).
- 69 **Section 202 program:** 12 U.S.C. § 1701q; 24 C.F.R. Part 891.
- 70 **Section 811 program:** 42 U.S.C. § 8013; 24 C.F.R. Part 891.
- 71 Owners are required to give a year's advance notice to HUD and affected tenants before terminating any project-based Section 8 contract. The notice must state that if Congress makes funds available, the owner and HUD may agree to a renewal, and if there is no renewal, HUD will provide enhanced vouchers. 42 U.S.C. § 1437f(c)(8). If the owner wishes to prepay, the owner must give a notice of intent to prepay to HUD, affected tenants, and the chief executive officer of the locality at least 150 days but not more than 270 days prior to pre-payment. Prepayment is permitted only to the extent that it is consistent with the terms and conditions of the mortgage or mortgage insurance contract for the development. The owner must also agree not to increase the rent charges for a 60-day period after prepayment. Pub. L. No. 105-276, § 219(a), 112 Stat. 2487 (Oct. 21, 1998). In some cases, prepayment is barred absent specific HUD findings. 12 U.S.C. § 1715z-15; HUD Notice H-2004-17 (Aug. 20, 2004); *Brighton Village Nominee Trust v.*

Malyshev, 2004 U.S. Dist. LEXIS 4703 (D. Mass. 2004). There may also be local zoning or affordability restrictions that provide strategies for preservation.

- ⁷² 42 U.S.C. § 1437f(t); PIH Notice 2001-41 (HA), *Section 8 Tenant-Based Assistance (Enhanced and Regular Housing Choice Vouchers) for Housing Conversion Actions—Policy and Processing Guidance* (Nov. 14, 2001). See also PIH Notice 2005-24 (HA).
- ⁷³ 24 C.F.R. Part 882.
- ⁷⁴ 42 U.S.C. § 11401; 24 C.F.R. Part 882, Subpart H.
- ⁷⁵ 24 C.F.R. §§ 882.413, 882.514, 882.515, and 882.518.
- ⁷⁶ 42 U.S.C. §§ 12745(a) and 12755; 24 C.F.R. §§ 92.252 and 92.253.
- ⁷⁷ G.L. c. 23A, App. 1, § 1-13A (as added to St. 1966, c. 708 in 1970 and amended in 1975). There is a Section 13A *Handbook* which is available through MassHousing’s website, www.masshousing.com.
- ⁷⁸ G.L. c. 23B, §§ 25-27. In 1998, the related MassHousing enabling statute was amended to make clear that tenants’ adjusted rents, if not established by some other subsidy source, would be set at 30% of the maximum income amount necessary to be eligible for public housing—i.e., 80% of area median income. See St. 1998, c. 239, § 12, amending G.L. c. 23A, App. 1, § 1-6. This means that the flat rents not covered by some other subsidy program are fairly high and are not affordable to many lower-income applicants and tenants.
- ⁷⁹ St. 1987, c. 226, § 3, line item 3722-8878, as amended.
- ⁸⁰ G.L. c. 23A, App. 1 (also cited as St. 1966, c. 708, as amended) (enabling statute establishing MHFA, now known as MassHousing).
- ⁸¹ 760 C.M.R. §§ 49.02 (definition of “project-based units”), 49.06, 49.07. Low-Income Set-Aside units exist where the development has been constructed with the assistance of certain state or federal programs in conjunction with private developers. The programs include RDAL and SHARP (as discussed in the text above), TELLER, and federal and state tax credit units (as discussed in the text above), as well as a number of other programs as outlined in the MRVP regulations. As designated Low-Income Set-Aside units turn over, they must first be marketed to Section 8 and MRVP tenant-based mobile participants. If no participants can be found this way, the housing agency may ask DHCD and MassHousing to approve the assignment of a project-based MRVP subsidy for the unit. A tenant with a tenant-based MRVP voucher residing in a Low-Income Set-Aside unit may choose to relinquish the tenant-based MRVP voucher; if she does so, the rent is set according to project-based voucher rent rules, but the tenant loses mobility. Tenants exercising this option are required to sign paperwork showing that they are voluntarily relinquishing the tenant-based MRVP. See Memorandum of Brenda Royer of DHCD, *Mobile Voucher Holders Residing in Low-Income Set-Aside Units* (Aug. 7, 2001), on file at Massachusetts Law Reform Institute.
- ⁸² 760 C.M.R. §§ 49.02 (definitions of Low-Income Set-Aside units, project-based units, and project-based waiting lists), 49.06, and 49.07. On the transfer preferences, see Sections D and G of MassHousing’s Tenant Selection Plan, which can be found at www.masshousing.com. As provided there, over-housed tenants with a project-based subsidy and unsubsidized tenants paying over 50% of income or who are overcrowded tenants can be accorded transfer preference. However, if the tenant is currently unsubsidized, the tenant may need to be referred to a local housing agency to be placed on a project-based waiting list. Local housing agencies administering the project-based

MRVP Program waiting lists must have sought a waiver from DHCD to apply these preferences. Under such waivers, one development resident may be selected for every three non-resident applicants. See Memorandum of Donna Goguen of DHCD, *Tenant Selection: Waiver to Assist Current Residents of 13A and 236 Developments* (Dec. 5, 2001); see also Memorandum of Donna Goguen of DHCD, *Revised MHFA Tenant Selection Plan* (Sept. 21, 1999). Both of these memoranda are on file at Massachusetts Law Reform Institute.

83 760 C.M.R. §§ 49.05(5) and 49.07(2).

84 See DHCD's memorandum of Aug. 21, 1995, *Non-Renewal of Project-Based Lease*, on file at Massachusetts Law Reform Institute.

85 26 U.S.C. § 42; 26 C.F.R. § 1.42.

86 HUD Notice PIH-2001-2.

87 26 U.S.C. § 42(i)(3)(D). If the students are receiving assistance under Title IV of the Social Security Act (are receiving SSI), or are enrolled in a job training program and receiving assistance under the Job Training Partnership Act or a similar federal, state, or local law, or if the full-time students are either single parents and their children who are not dependents of another individual or are married and file a joint return, they will be eligible for the federal low-income tax credit program.

88 26 U.S.C. § 42(h)(6); IRS Ruling 2004-82 (Aug. 30, 2004); *Carter v. Md. Mgt. Co.*, 377 Md. 596, 835 A.2d 158 (2003); *Cimarron Village Townhomes v. Washington*, 659 N.W.2d 811 (Minn. App. 2003); *Fennelly v. Kimball Court Apts. LP*, 2001 Mass. Super. LEXIS 495, 14 Mass. L. Rep. 37; *Lend Lease Apt. Mgt. LLC v. Stribling*, 2004 W.L. 2595805 (Conn. Super.).

89 G.L. c. 23B, § 3; G.L. c. 62, § 6I; G.L. c. 63, § 31H; 760 C.M.R. § 54.00.

90 G.L. c. 121B, § 26(m); 760 C.M.R. § 21.00.

91 42 U.S.C. §§ 11301-11489.

92 42 U.S.C. § 11302.

93 42 U.S.C. § 11403-11407b; 24 C.F.R. Part 582.

94 42 U.S.C. §§ 11403e-4 and 11403f; 24 C.F.R. §§ 582.315 and 582.320(a). To know who must terminate the participant and provide for review, you have to review both the regulation and the statute. The regulation says that this action is by "the recipient." This term, in turn, is defined as "an applicant approved to receive a Shelter Plus Care grant." For definitions of "recipient" and "applicant," see 42 U.S.C. § 11403g and 24 C.F.R. § 582.5. The statute defines the term "applicant" to mean "a State, unit of local government, Indian tribe, or public housing agency." Therefore, a public agency, and not a social service provider, must make the decision and provide the hearing for the Shelter Plus Care program.

95 24 C.F.R. § 582.320(a).

96 24 C.F.R. § 582.320(b).

97 42 U.S.C. § 11384(b); 24 C.F.R. § 583.300(j).

98 42 U.S.C. §§ 11385 and 11386; 24 C.F.R. §§ 583.300(d-e) and 583.315.

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- ⁹⁹ 42 U.S.C. § 11386(j); 24 C.F.R. § 583.300(i). For the McKinney Supportive Housing program, unlike the Shelter Plus Care Program, the government or nonprofit agency that received the funds can make the termination decision and provide the review; such decision need not be made by a public agency. See 42 U.S.C. § 11382(9) (definition of “recipient” includes any governmental or nonprofit entity receiving assistance); 24 C.F.R. § 583.5 (definition of “recipient”).
- ¹⁰⁰ 42 U.S.C. §§ 11381-11389; 24 C.F.R. Part 583. For the definition of “disability” for this program, see 42 U.S.C. § 11382(2); 24 C.F.R. § 583.5 (definition of “disability”).
- ¹⁰¹ 42 U.S.C. § 11401; 24 C.F.R. Part 882, Subpart H.
- ¹⁰² G.L. c. 151B, § 4(7A); 24 C.F.R. 8.22, 8.23, 8.32; *HUD Multifamily Occupancy Handbook* 4350.3 CHG-1 (May, 2003), Chapter 2; HUD Notice H-01-02, *Compliance with Section 504 of the Rehabilitation Act of 1973 and the Disability/Accessibility Provisions of the Fair Housing Act of 1988*, as extended by HUD Notices H-03-10 and H-04-09; HUD Notice PIH-2003-31, *Accessibility Notice: Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Architectural Barriers Act of 1968, and the Fair Housing Act of 1988*; HUD Notice PIH 2005-5 (HA), *New Freedom Initiative, Executive Order 13217: “Community-Based Alternatives for Individuals with Disabilities,” and the Housing Choice Voucher Program*; Joint Statement of U.S. Department of Housing & Urban Development and the Department of Justice, *Reasonable Accommodations under the Fair Housing Act* (May 17, 2004), available at: www.hud.gov/offices/ftheo/library/huddojstatement.pdf.
- ¹⁰³ The statute defines AIDS “and related diseases” to be AIDS (acquired immunodeficiency syndrome) “or any condition arising from the etiologic agent” for AIDS. 42 U.S.C. § 12902(1). The regulation defines the term to include “infection with the human immuno-deficiency virus,” i.e., persons who are HIV positive. 24 C.F.R. § 574.3 (definition of “AIDS or related diseases”).
- ¹⁰⁴ 42 U.S.C. § 12901-12912; 24 C.F.R. Part 574.
- ¹⁰⁵ 24 C.F.R. § 574.310(e); *Cotton v. Alexian Brothers Bonaventura House*, 2003 U.S. Dist. LEXIS 16023 (N.D. Ill. 2003). Under the regulations, the termination and review process is provided by “grantees,” i.e., the entity that was awarded and received the grant; these do not have to be public agencies. See 24 C.F.R. §§ 5.100 and 574.3 (definitions of “grantee”). On the other hand, the statute defines “grantees” as states or units of local government, as opposed to “recipients” or “applicants,” which includes nonprofit organizations eligible to receive assistance. 42 U.S.C. § 12902(2), (4), and (7). There is no statutory provision regarding termination of HOPWA assistance as there is for the Shelter Plus Care and McKinney Supportive Housing programs.
- ¹⁰⁶ 760 C.M.R. § 38.00.
- ¹⁰⁷ 104 C.M.R. § 28.00.
- ¹⁰⁸ G.L. c. 186, § 17A.
- ¹⁰⁹ 760 C.M.R. § 5.02(2) (DHCD tenant selection procedure does not apply to Chapter 689 housing). For DMH and DMR residential services generally, see G.L. c. 19, § 19 (DMH); G.L. c. 19B, § 15 (DMR); and 104 C.M.R. § 28.15 (DMH licensing standards for residential programs).
- ¹¹⁰ **Federal:** 24 C.F.R. § 966.4(o) & (p), and *HUD Public Housing Occupancy Guidebook*, Part 5 (June, 2003); **State:** 760 C.M.R. §§ 6.05(5)(q) and 6.06(1).

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- ¹¹¹ **Federal:** 24 C.F.R. § 966.4(l)(2)(ii)(E); **State:** 760 C.M.R. § 6.06(6)(1). In federal public housing, however, before any changes are made to the standard lease, charges or policies incorporated into the lease, or grievance procedures, all tenants should be given 30 days' written notice of the changes and a reasonable opportunity to comment on them. 24 C.F.R. §§ 966.3, 966.5, and 966.52(c). In state public housing, the housing authority must consult with any local tenants organization (LTO) before making any change in the lease, and in the event of a disagreement, the LTO may present its position to DHCD. 760 C.F.R. § 6.06(1).
- ¹¹² **Section 8:** 24 C.F.R. § 982.308; **MRVP:** 760 C.M.R. § 49.09(3).
- ¹¹³ For a summary of lease requirements for all federal multifamily programs, see *HUD Multifamily Occupancy Handbook* 4350.3 CHG-1 (Aug. 2004), Chapter 6. For a copy of the sample Occupancy Agreement for MassHousing multifamily developments, go to: www.masshousing.com.
- ¹¹⁴ For the HOME program, see 24 C.F.R. § 92.253(a).
- ¹¹⁵ 24 C.F.R. § 582.315.
- ¹¹⁶ 24 C.F.R. § 966.4(b)(5).
- ¹¹⁷ 760 C.M.R. § 6.07(2).
- ¹¹⁸ 24 C.F.R. §§ 880.608, 881.601, 883.701, 884.115, 886.116, 886.315, 891.435, 891.635, and 891.775; *HUD Multifamily Occupancy Handbook* 4350.3 CHG-1 (Aug. 2004), Chapter 6, § 2, and in particular Figure 6-6, which describes what can be charged for each program.
- ¹¹⁹ 24 C.F.R. § 982.313.
- ¹²⁰ HUD regulations previously specifically did not permit charging last month's rent for the Section 8 program, since the housing agency would reimburse the owner for any vacancy loss if the tenant moved out without prior notice. *Attorney General v. Brown*, 400 Mass. 826, 511 N.E.2d 1103 (1987) (issue of whether landlord unlawfully discriminated against Section 8 subsidy holders because of policy of not accepting tenants where last month's rent could not be collected). These regulations were changed in 1995. If an owner insisted that a Section 8 tenant pay the full contract rent as a last month's rent, this would likely be a violation of G.L. c. 151B, § 4(10).